

Fores ■ Macko
 A Professional Law Corporation
 1600 "G" Street, Suite 103
 Modesto, CA 95354
 Telephone: (209) 527-9899

ANTHONY D. JOHNSTON, SBN 244282
FORES ■ MACKO

A Professional Law Corporation
 1600 "G" Street, Suite 103
 Modesto, CA 95354
 (209) 527-9899
 (209) 527-2889 (Facsimile)

Attorney for Chapter 7 Trustee
 Michael D. McGranahan

UNITED STATES BANKRUPTCY COURT
 EASTERN DISTRICT OF CALIFORNIA

In Re:

RUDY RAYMOND MESA and

MARCIA RAE MESA

Debtors.

Case No. 2016-90924
 Chapter 7 Case

D.C.N. ADJ-03

Hearing

Date: March 9, 2017
 Time: 10:30 a.m.
 Place: 1200 I Street, Suite 4
 Modesto, California 95354
 Judge: Hon. Ronald H. Sargis

TRUSTEE'S MOTION FOR AUTHORITY TO SELL PROPERTY AT AUCTION

Michael D. McGranahan, (the "**Trustee**"), in his capacity as Chapter 7 Trustee for the
 bankruptcy estate of Rudy Raymond Mesa and Marcia Rae Mesa (the "**Debtors**"), brings this
 motion to sell property which is property of the bankruptcy estate, which is set forth in
 paragraph 2, below.

1. On October 7, 2016, the Debtors filed a voluntary petition in this Court under
 Chapter 7 of Title 11, United States Code. The Trustee was appointed interim trustee in this
 case on October 7, 2016.

2. As of the date of the filing of the voluntary petition, the Debtors owned property
 (hereinafter referred to as the "**Property**") which is identified as:

///

Fores & Macko
 A Professional Law Corporation
 1600 "G" Street, Suite 103
 Modesto, CA 95354
 Telephone: (209) 527-9899

Item Number: 187444
 Description: 1940 Ford Coupe
 License Number: 6CAV833
 VIN: CA970819

3. Trustee proposes that the Property shall be sold at auction by Bar None Auction (the "**Auctioneer**") during the auction which is set to take place on April 8, 2017. The sale shall take place in accordance with 11 U.S.C. section 363(b) and Federal Rules of Bankruptcy 6004.

4. The auction shall take place at:

4751 Power Inn Road

Sacramento, California 95826

5. The Trustee has entered into an agreement (the "**Auction Agreement**") subject to this Court's approval, with the Auctioneer, a completely unrelated third party, to conduct an auction for the sale of the Property in accordance with the terms specified herein. A copy the Auction Agreement between the Trustee and the Auctioneer is filed herewith as **EXHIBIT "A."** The Auctioneer was established in 1993 and is experienced in sale of vehicles. On or about even date herewith, the Trustee will file an application to employ the Auctioneer to conduct the auction of the Property pursuant to the Auction Agreement.

6. The Auctioneer's fee schedule is set forth in the Auction Agreement (**EXHIBIT "A"** filed herewith). This motion also seeks authority to pay the Auctioneer a commission equal to 10% of the sale price of the Property in accordance with the Auction Agreement, filed herewith as **EXHIBIT "A."**

7. The Trustee estimates that the Property will sell for \$10,000.00. Following is the estimated net proceeds to the estate:

Total Sale Price for all Property:	\$10,000.00
Less: Auctioneer's Commission:	\$ 1,000.00
Less: Towing Expense	<u>\$ 125.00</u>
Equals: Net Proceeds to Estate:	<u>\$ 8,875.00</u>

8. Authority for this motion to sell an asset of the estate is found in 11 U.S.C. § 363(b)(1): "The trustee, after notice and a hearing, may use, sell, or lease, other than in the

1 ordinary course of business, property of the estate . . . “ Selling vehicles, as is the case here, of
2 this bankruptcy estate is not a transaction in the ordinary course of business.

3 9. Pursuant to the Auction Agreement, the Auctioneer will, within 21 days of the
4 auction sale, turn over the “net” proceeds of sale to the Trustee, that is, the gross proceeds less
5 auctioneer’s fees.

6 10. Notice of the proposed sale of the Property shall be made pursuant to Federal
7 Rule of Bankruptcy Procedure 6004(a). Notice is not required under subsection 7A of the
8 Clayton Act; thus, the notice of provisions of 11 U.S.C. § 363(b)(2) do not apply. Notice of the
9 proposed sale of the Property shall also be made pursuant to Local Rule 9014-1(f)(2).

10 WHEREFORE, Michael D. McGranahan, acting in his capacity as trustee, respectfully
11 prays for an order of this Court:

12 1. Authorizing the sale of the Property in accordance with the terms set forth in the
13 Auction Agreement filed as EXHIBIT “A” herewith;

14 2. Authorizing the sale of the Property to the winning bidder at the public auction to
15 be held by Bar None Auction, on the date and in the manner as specified herein;

16 3. Authorizing, if the Property should be sold, commission to the Auctioneer equal
17 to 10% of the sale price in accordance with the Auction Agreement, filed herewith as EXHIBIT
18 “A”;

19 4. That orders the Auctioneer to, within 21 days of the auction sale, turn over the
20 “net” proceeds of sale to the Trustee, that is, the gross proceeds less auctioneer’s fees and
21 expenses;

22 5. Authorizing the Trustee to execute all documents which are necessary or
23 convenient to complete the transactions; and

24 ///

25 ///

26 ///

27 ///

28 ///

6. That provides such further and other relief as deemed appropriate by the Court.

Dated: February 16, 2017

FORES ■ MACKO
A Professional Law Corporation

By: 

Anthony D. Johnston
Attorney for Chapter 7 Trustee,
Michael D. McGranahan

Fores ■ Macko
A Professional Law Corporation
1600 "G" Street, Suite 103
Modesto, CA 95354
Telephone: (209) 527-9899